In the High Court of Judicature at Madras

Dated : 18.6.2018

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition Nos.14577 to 14582 of 2018
& WMP.Nos.17209 to 17214 of 2018

M/s.Arthanari Loom Centre (Textile)
Private Limited, rep.by its Managing
Director Mr.A.Alagarasan ...Petitioner

Vs

The Assistant Commissioner (CT)
(FAC), Salem Town (South),
Commercial Taxes Department Offices,
Pitchards Road, Hasthampatti, Salem-7. ...Respondent

PETITIONS under Article 226 of The Constitution of India praying for the issuance of Writs of Certiorarified Mandamus to call for the records of the impugned orders dated 28.8.2017 respectively bearing Ref.Nos.TIN 33662681051/2011-12, TIN 33662681051/2012-13, TIN 33662681051/2013-14, TIN 33662681051/2014-15, TIN 33662681051/2015-16 and TIN 33662681051/2016-17 passed by the respondent, quash the same and further direct the respondent to pass a fresh order for the same show cause notices dated 15.6.2017 respectively bearing Ref.Nos.TIN/33662681051/2011-12, TIN 33662681051/2012-13, TIN 33662681051/2013-14, TIN 33662681051/2014-15, TIN 33662681051/2015-16 and TIN 33662681051/2016-17 after providing an opportunity of personal hearing to the petitioner.

For Petitioner : Mr.S.R.Sankareshwaran

For Respondent : Mr.M.Hariharan, AGP

COMMON ORDER

Mr.M.Hariharan, learned Additional Government Pleader accepts notice for the respondent. Heard both. By consent, the writ petitions are taken up for joint disposal.

2. The petitioner is aggrieved by the impugned assessment orders passed under the provisions of the Tamil Nadu Value Added Tax Act, 2006 for the years 2011-12 to 2016-17.

3. The petitioner did not file their objections to the revision notices dated 15.6.2017/23.6.2017 issued on the basis of an inspection conducted in the place of business of the petitioner by the officials of the Enforcement Wing on 15.2.2017.

4. The learned counsel for the petitioner, by referring to the averments in the affidavits filed in support of these writ petitions, submits that all the show cause notices were hand delivered on 23.6.2017 and that reply was under preparation. According to him, the defects pointed out in the revision notices were minute, but vital pertaining to the old period from 2011-12, as a result of which, it was a time consuming process.

5. The petitioner would state that their staff were deployed for

collecting the relevant data from various Departments of the factory internally and that there was some delay in preparing the reply to the revision notices, which were received on 23.6.2017. He would further state on affidavit that their staff personally informed the respondent about the preparation of the reply to the revision notices, as it was a time consuming process and that they would require some more time. However, the impugned orders were hand delivered to the staff of the petitioner on 28.8.2017.

6. Considering the fact that the assessments are sought to be reopened from 2011-12 onwards, based upon an inspection conducted in the place of business of the petitioner by the officials of the Enforcement Wing on 15.2.2017, this Court is of the view that one opportunity can be granted to the petitioner, however, subject to a condition.

7. Accordingly, the writ petitions stand disposed of with a direction to the petitioner to pay 15% of the tax demanded for each of the assessment years within a period of three weeks from the date of receipt of a copy of this order. If the said condition is complied with, the petitioner is entitled to treat the impugned orders as show cause notices and submit their objections within a period of two weeks therefrom. On receipt of the objections, the

T.S.SIVAGNANAM,J

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respondent shall afford an opportunity of personal hearing to the petitioner and redo the assessments in accordance with law. It is made clear that if the petitioner fails to comply with the condition imposed, the benefit of this order will not enure to the petitioner and the writ petitions will stand automatically dismissed giving liberty to the respondent to initiate recovery proceedings. On the other hand, if the petitioner complies with the said condition, the demand of the balance tax for the assessment years from 2011-12 to 2016-17 shall remain stayed till fresh orders are passed by the respondent. No costs. Consequently, the connected WMPs are closed.

18.6.2018

Internet : Yes

To
The Assistant Commissioner (CT) (FAC), Salem Town (South), Commercial Taxes Department Offices, Pitchards Road, Hasthampatti, Salem-7.

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